Supreme Court, U. S.
FILED
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MICHAEL RODAK, JR., CLERK

In the Supreme Court of the United States

OCTOBER TERM, 1977

No. 77-1195

UNITED STATES OF AMERICA,
Respondent,

vs.

WALTER WOLAK, JR.,
Petitioner.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

DOHERTY & THOMAS, P.C.
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INDEX

INDEX TO AUTHORITIES CITED I
OPINION 1
JURISDICTION 2
STATUTORY PROVISION 2
STATEMENT OF FACTS 2
REASONS FOR GRANTING WRIT 4
RELIEF 9
APPENDIX—
United States v. Wolak, No. 77-1381 (6th Cir. 1978) A1
United States v. Wolak, No. 5-80909 (E.D. Mich. 1977) A2
Petitions for Writ of Habeas Corpus ad Prosequendum A5, A9, A12
Writs of Habeas Corpus ad Prosequendum A7, A11, A14, A16

Index to Authorities Cited

CASES

Carbo v. *United States*, 364 U.S. 611 (1961) 8
Enright v. *United States*, 434 F. Supp. 1056 (S.D.N.Y. 1977) 4
Johnson v. *Zerbst*, 304 U.S. 458 (1938) 4
Humphrey v. *Cady*, 405 U.S. 504 (1972) 4
Ridgeway v. *United States*, 558 F.2d 360 (6th Cir. 1977) 6
Ridgeway v. *United States*, 437 F. Supp. 564 (W.D.Mo. 1977) 8

United States v. *Cyphers*, 566 F.2d 360 (2nd Cir. 1977) 4
United States v. *Ford*, 550 F.2d 732 (2nd Cir. 1977) 6
United States ex rel. Esola v. *Groomes*, 520 F.2d 830 (3rd Cir. 1975) 5, 8
United States v. *Harris*, 566 F.2d 610 (8th Cir. 1977) 7
United States v. *Kenaan*, 557 F.2d 912 (1st Cir. 1977) 6-7
United States v. *Mauro*, 544 F.2d 588 (2nd Cir. 1976), *cert. granted*, 46 U.S.L.W. 3183 (U.S. Oct. 4, 1977) 4, 6, 7, 9
United States v. *Oliver*, 523 F.2d 253 (2nd Cir. 1975) 8
United States v. *Randall*, 429 F. Supp. 18 (D.D.C. 1977) 4
United States v. *Scallion*, 548 F.2d 1168 (5th Cir. 1977) 7
United States v. *Sorrell*, 562 F.2d 227 (3rd Cir. 1977) 7
United States v. *Thompson*, 562 F.2d 232 (3rd Cir. 1977) 7
United States v. *Wolak*, 510 F.2d 164 (6th Cir. 1975) 3
United States v. *Wolak*, No. 77-1381 (6th Cir., filed January 24, 1978) 2

STATUTES

18 U.S.C.A. App. §§ 1, et seq. (1970) 2, 4, 5, 6
28 U.S.C.A. § 2241(c)(5) 6

MISCELLANEOUS

S. Rep. No. 91-1356, 91st Cong., 2nd Sess. 4864 (1972) 5, 7

In the Supreme Court of the United States

OCTOBER TERM, 1977

No. .....

UNITED STATES OF AMERICA,
Respondent,
vs.
WALTER WOLAK, JR.,
Petitioner.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

Now comes WALTER WOLAK, JR., by and through counsel, PHILIP J. DOHERTY of DOHERTY & THOMAS, P.C., respectfully submitting this Petition for Writ of Certiorari and says as follows:

OPINION

The Order of the United States Court of Appeals for the Sixth Circuit is unreported at the time. A copy of the Order, denying Petitioner's appeal, is included in the Appendix to this, Petitioner's Petition for Writ of Certiorari. That Order was filed January 24, 1978.

JURISDICTION

The grounds on which the jurisdiction of this Honorable Court is invoked by your Petitioner include the following:

A) On January 24, 1978, the United States Court of Appeals for the Sixth Circuit affirmed the conviction of WALTER WOLAK, JR., in the case of *United States* v. *Walter Wolak, Jr.*, No. 77-1381 (6th Cir. 1978).

B) The statutory provision which confers jurisdiction on this Court to review the judgment of the United States Court of Appeals for the Sixth Circuit is contained in 28 U.S.C.A. § 1254(1), which reads as follows:

"By writ of certiorari granted upon the petition of any party to any civil or criminal case, before or after rendition of judgment or decree."

STATUTORY PROVISION

18 U.S.C.A. App. §§ 1, et seq. (1970).

STATEMENT OF FACTS

Appellant Wolak was serving a sentence at the State Prison of Southern Michigan, at Jackson, Michigan, when he was arraigned, pursuant to a writ of habeas corpus ad prosequendum, before a United States Magistrate in the Eastern District, Southern Division of Michigan (Detroit), on an indictment charging him with a violation of 21 U.S.C. §§ 846 and 841(a)(1). The Appellant was returned

to Jackson Prison on April 20, 1973. A trial date was set for June 27, 1973, and the Appellant was again transported to Federal custody in Detroit on that date to stand trial, but the trial was postponed until August 25, 1973. Appellant was then returned to State custody on July 6, 1973.

On August 7, 1973, Appellant, represented by counsel, entered a plea of guilty to one (1) count of the indictment. On October 16, 1973, he was sentenced to a five (5) year term, to run concurrently with his State sentence and to be followed by a special parole term of three (3) years.

As a result of a successful petition to the Sixth Circuit challenging the guilty plea,[1] a Superseding Indictment was issued against Appellant on May 27, 1975, and on a second guilty plea entered March 4, 1976, Appellant was sentenced on May 3, 1976, to the same term he received originally, his term to run from the same date, October 16, 1973.

On February 14, 1976, Appellant moved to vacate his sentence pursuant to 28 U.S.C.A. § 2255, based upon violation of his rights under Article IV (e) of the Interstate Agreement on Detainers, 18 U.S.C.A. App. §§ 1, et seq. (1970) (hereinafter referred to as "IADA").

The United States District Court for the Eastern District of Michigan denied Appellant's motion. The Court held that assuming a violation of Article IV (e) occurred, Appellant waived his right not to be returned to State custody without a trial by failing to timely raise the alleged violation of the IADA before his guilty plea.

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1. *United States* v. *Wolak*, 510 F.2d 164 (6th Cir. 1975). The Court held that it was improper not to inform Defendant of the maximum possible prriod of incarceration and other consequences of his guilty plea.

The Sixth Circuit affirmed the holding of the District Court but on different grounds. The Sixth Circuit did not rule that the Appellant is estopped from raising the substantive issue because he plead guilty. In fact, the Court addressed the issue as to whether a writ of habeas corpus ad prosequendum constitutes a detainer within the meaning of the IADA. The Court, in saying it does not, never addressed the issue of waiver.[2]

REASONS FOR GRANTING WRIT

The instant petition treats a question of statutory interpretation of vital importance necessitating a decision by this Honorable Court.

The question presented is "whether the requirements of the Interstate Agreement on Detainers, 18 U.S.C.A. App. §§ 1, et seq. (1970), are applicable to persons whose Federal custody was obtained by means of a writ of habeas corpus ad prosequendum, 28 U.S.C.A. § 2241(c)(5)".

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2. Appellant would contend that insofar as the Sixth Circuit addressed the substantive issue, the District Court's holding with report to waiver is not now before this Honorable Court. Furthermore, there has been case law to the effect that a plea of guilty does not operate to preclude a defendant from thereafter raising a claim respecting a violation of his rights under the IADA. *See United States* v. *Mauro*, 544 F.2d 588 (2nd Cir. 1976); *United States* v. *Cyphers*, 566 F.2d 360 (2nd Cir. 1977); *United States* v. *Randall*, 429 F. Supp. 18 (D.D.C. 1977); *Enright* v. *United States*, 434 F. Supp. 1056 (S.D.N.Y. 1977).

In *Humphrey* v. *Cady*, 405 U.S. 504 (1972), this Honorable Court was presented with the question of whether an attorney had validly waived a client's right. This Court, in remanding to the District Court for an evidentiary hearing, pointed out that "a waiver must be the product of an understanding and knowing decision by the petitioner himself, who is not necessarily bound by the decision or default of his counsel." *Id.* at 517. (Counsel, in the instant case, first became involved when the Motion to Vacate sentence was filed.) *See also Johnson* v. *Zerbst*, 304 U.S. 458 (1938).

Finally, Article IX of the IADA says "[t]his agreement shall be liberally construed so as to effectuate its purposes."

The Interstate Agreement on Detainers is a comprehensive statute that was drafted in response to the problems a prisoner faces when there are open criminal charges pending against him in another jurisdiction. *See United States* v. *Ford*, 550 F.2d 732, 737-741 (2nd Cir. 1977).

Article I of the Agreement provides:

> "The party States find that charges outstanding against a prisoner, detainers based on untried indictments, informations or complaints, and difficulties in securing speedy trial of persons already incarcerated in other jurisdictions, produce uncertainties which obstruct programs of prisoner treatment and rehabilitation. Accordingly, it is the policy of the party States and the purpose of this agreement to encourage the expeditious and orderly disposition of such charges and determination of the proper status of any and all detainers based on untried indictments, informations or complaints. The party States also find that proceedings with reference to such charges and detainers, while emanating from another jurisdiction, cannot properly be had in the absence of cooperative procedures. It is the further purpose of this agreement to provide such cooperative procedures." 18 U.S.C.A. App. § 2, Art. I.

See also Sen. Rep. No. 91-1356, 91st Cong., 2nd Sess. 4864-4865 (1970), which elucidates on the problems an inmate faces against whom a detainer has been lodged:

> "To implement the right to a speedy trial and to minimize the interference with a prisoner's treatment and rehabilitation, the Agreement creates several rights previously non-existent." *United States ex rel. Esola* v. *Groomes*, 520 F.2d 830, 833 (3rd Cir. 1975).

Specifically, Article IV was designed to provide a simplified procedure for the demanding State to gain the presence of a defendant for purposes of trial. Article IV (a), essentially required that a request for custody of an inmate be honored by the sending State absent affirmative interference by the governor of the confining institution. Article IV (c) requires that any trial instigated by the use of Article IV (a) be commenced within one hundred twenty (120) days. Finally, Article IV (e) provides that if the trial is not held prior to the prisoner's being returned to the sending State, then the "indictment, information or complaint shall not be of any further force or effect, and the Court shall dismiss the same with prejudice." 18 U.S.C.A. App. § 2, Art. IV (e) (1970). *See United States ex rel. Esola* v. *Groomes,* 520 F.2d, at 834.

Notwithstanding the availability of the IADA, often the Government will use the traditional habeas writ to obtain prisoners for trial.[3] Accordingly, a split has developed in the Circuits as to whether the requirement of the Agreement applies only to detainers and not to Federal writs of habeas corpus ad prosequendum.[4]

The Sixth, First, Fifth, and Eighth Circuits have held that the filing of such a writ does not constitute a detainer. *See Ridgeway* v. *United States,* 558 F.2d 357 (6th Cir. 1977); *United States* v. *Kenaan,* 557 F.2d 912 (1st Cir.

3. 28 U.S.C.A. § 2241(c)(5) provides:

"(c) The writ of habeas corpus shall not extend to a prisoner unless—

(5) It is necessary to bring him into court to testify or for trial."

4. The United States is a "state" within the meaning of the Agreement. 18 U.S.C.A. App. § 2, Art. II (a). In *United States* v. *Mauro,* 544 F.2d 588, 593 (2nd Cir. 1976), *cert. granted,* 46 U.S.L.W. 3183 (U.S. Oct. 4, 1977) the Court held that the United States is both a sending and a receiving state.

1977); *United States* v. *Scallion,* 548 F.2d 1168 (5th Cir. 1977); *United States* v. *Harris,* 566 F.2d 610 (8th Cir. 1977).

The Second and Third Circuits have held that the filing of the writ of habeas corpus ad prosequendum constitutes a detainer and invokes the application of the IADA. *See United States* v. *Sorrell,* 562 F.2d 227 (3rd Cir. 1977); *United States* v. *Thompson,* 562 F.2d 232 (3rd Cir. 1977); *United States* v. *Mauro,* 544 F.2d 588 (2nd Cir. 1976), *cert. granted,* 46 U.S.L.W. 3183 (U.S. Oct. 4, 1977).

The First Circuit in *United States* v. *Kenaan, supra,* concluded that the differences between a detainer and a writ of habeas corpus ad prosequendum are so fundamental "as to constitute each a separate, distinct avenue for obtaining custody of prisoners for Federal prosecution." 557 F.2d at 915. The Second Circuit, however, in *United States* v. *Mauro, supra,* reasoned that, although the habeas writ is the traditional vehicle used to obtain custody of State prisoners, "it does not follow that the habeas writ is not a detainer within the Agreement." 544 F.2d at 591.

The definition of the term "detainer" is not found in the IADA. However, Congressman Kastenmeier, in proposing this legislation, stated:

> "For the purpose of this legislation a detainer is a notification filed with the institution in which a prisoner is serving a sentence, advising that he is wanted to stand trial on pending criminal charges in another jurisdiction." 116 Cong. Rec. 13999 (1970). *See also* S. Rep. No. 91-1356, 91st Cong., 2nd Sess., 3 U.S. Code Cong. and Admin. News 4864, 4865 (1970).

The Court in *Mauro,* in analyzing the above statement, noted that this was the type of notification found

in the writ of habeas corpus ad prosequendum they had before them. 544 F.2d at 591.

However, it has been argued that, whereas a detainer historically was an informal notice procedure that did not bind the holding authorities, the writ of habeas corpus ad prosequendum originally, and at present, is a court order directing the production of a State prisoner to stand trial in Federal Court. *Ridgeway* v. *United States,* 437 F. Supp. 564, 567-569 (W.D.Mo. 1977).

Yet, notwithstanding the compulsory nature of the writ, vis-á-vis a detainer, "the jurisdiction to which such a writ is addressed is relied upon to cooperate in turning over the defendant to the other authorities." *United States* v. *Oliver,* 523 F.2d 253, 258 (2nd Cir. 1975). *See also Carbo* v. *United States,* 364 U.S. 611, 621 (1961). Thus, when both methods are actually employed, one wonders whether the actual procedures and implementation are so inherently different, especially now under the IADA. Furthermore, it seems reasonable to conclude that the abuses for which the IADA was designed to protect against are just as real if the inmate is brought into Federal custody pursuant to a writ of habeas corpus ad prosequendum and returned without being tried.

The Third Circuit in *United States ex rel. Esola* v. *Groomes, supra,* held that the IADA provided the exclusive means of transfer between two (2) participating jurisdictions. 520 F.2d at 837. In addition, Article IX of the Act provides that the Agreement "shall be liberally construed so as to effectuate its purposes", which are stated in Article I.

Against this is to be considered the decisions which have held that a writ of habeas corpus ad prosequendum is not a detainer within the meaning of the IADA. The

result of such divergent views is a situation which may, in the same fact situation, produce diametrically opposite results. Accordingly, it is necessary for this Honorable Court to submit a decision that would breathe uniformity and consistency into a serious situation.

It is the Appellant's position that when the Government seeks to obtain the custody of a State prisoner for purposes of trial in a Federal Court, the means of transfer must be the IADA. To do otherwise would leave important legislation with form and no substance, a shell devoid of the means to guard against the abuses it was designed to protect against.

As pointed out in *United States* v. *Mauro, supra*:

> "In view of the clear language of Article IV (e), we believe the Agreement was plainly designed to avoid the shuttling of prisoners back and forth between the penal institutions of the two jurisdictions. The disruptive effect upon the prisoner's morale is the same irrespective of the caption on the paper which produces him in the jurisdiction seeking him for trial." 544 F.2d at 593.

RELIEF

Wherefore, Petitioner respectfully requests this Honorable Court to grant Petitioner's Petition for Writ of Certiorari.

Respectfully submitted,

DOHERTY & THOMAS, P.C.
PHILIP J. DOHERTY (P 12839)
225 South Main Street
Royal Oak, Michigan 48067
(313) 543-3404
Attorney for Petitioner

APPENDIX

No. 77-1381

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

UNITED STATES OF AMERICA
Plaintiff-Appellee

v.

WALTER WOLAK, JR.
Defendant-Appellant

ORDER

(Filed January 24, 1978)

BEFORE: EDWARDS, ENGEL and MERRITT, Circuit Judges.

The defendant-appellant Walter Wolak contends on appeal that a writ of habeas corpus ad prosequendum constitutes a "detainer" under the Interstate Agreement on Detainers, 18 U.S.C. App. §§1, et seq. (1970). Finding that the issue raised on this appeal is controlled by our decision in *Ridgeway* v. *United States,* 558 F.2d 357 (6th Cir. 1977) holding that a writ of habeas corpus ad prosequendum issued in the normal course of pre-trial proceedings is not such a "detainer" under the Interstate Agreement on Detainers, and finding therefore that the question raised on this appeal is unsubstantial under Rule 9, Rules of the Sixth Circuit and does not need further argument, the judgment of the court below denying defendant-appellant's motion to vacate sentence is hereby affirmed.

Entered by Order of the Court

/s/ John P. Hehman
Clerk

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Criminal No. 5-80909

UNITED STATES OF AMERICA,
Plaintiff,

v.

WALTER WOLAK, JR.,
Defendant.

MEMORANDUM OPINION

(Filed April 8, 1977)

The court's docket in this cause reflects that on April 19, 1973, the United States Marshal, pursuant to a writ of habeas corpus ad prosequendum, transported petitioner from the State Prison of Southern Michigan at Jackson to the United States Courthouse for arraignment before a magistrate on an indictment charging violation of 21 U.S.C. §§846 and 841(a)(1) and 18 U.S.C. §2. Petitioner was returned to the state prison on the day following his arraignment, April 20, 1973. On June 27, 1973, the United States Marshal again transported petitioner to the United States Courthouse for trial on those charges. The trial did not go forward on that day, rather a subsequent trial date was set for August 28, 1973. On August 7, 1973, however, petitioner, represented by counsel, entered a guilty plea to one count of that indictment. He entered into a Rule 11 agreement with the government limiting his sentence to five years. On October 16, 1973, he was sentenced upon his guilty plea.

In his petition, filed pursuant to 28 U.S.C. §2255, petitioner contends, for the first time, that this sequence of events violated Article IV(e) of the Interstate Agree-

ment on Detainers Act (IADA) and, therefore, the court was without jurisdiction to try him or to impose sentence. Article IV(e) provides that when a prisoner is obtained from a sending jurisdiction and then returned to that jurisdiction without having been tried, the indictment pending in the receiving jurisdiction "shall be of no further force or effect and the court shall enter an order dismissing the same with prejudice." Thus, petitioner argues that the act of returning him to the State Prison of Southern Michigan without trial violated Article IV(e) of the IADA.

Assuming that a violation of Article IV(e) occurred, we, nevertheless, conclude that petitioner waived his right not to be returned to Jackson without trial by failing to timely raise the alleged violation of IADA before his guilty plea. A timely motion would have effectuated the underlying purposes of the IADA. Raising the violation for the first time in a post-conviction proceeding cannot advance any purpose for which the IADA was passed. Any harm to petitioner's rehabilitation program would have already occurred. We are persuaded that when Congress enacted the IADA it did not intend that relief be available to petitioners who assert a violation for the first time in a post-conviction proceeding.

We are aware that the United States Court of Appeals for the Second Circuit in *United States* v. *Cyphers*, No. 76-1131 (2d Cir. filed Feb. 8, 1977) held that a defendant who alleged a violation of the Interstate Agreement on Detainers Act for the first time on appeal from his conviction after trial in the district court did not waive this objection. In so doing, the court found that the policy behind Article IV(e) of providing for expeditious resolution of all outstanding charges which may affect the conditions or duration of confinement overrode the waiver provisions of Rule 12(f), Fed. R. Crim. P., Slip Op. at 1745.

It is significant that the court did not hold that the violation of IV(e) was jurisdictional. *Cyphers*, however, does not support petitioner's position in the case at bar. The defendant in *Cyphers* went to trial. Article IV(e), by protecting the defendant from being constantly shuttled between the sending and receiving jurisdictions, facilitates communication between the defendant and his lawyer and thus preparation of the defense. In the case at bar, there was no defense presented. Petitioner pled guilty. Thus, the policy considerations present in *Cyphers* are absent here. A guilty plea represents a break in the chain of events which preceded it in the criminal process and precludes the defendant from raising independent claims which occurred prior to the entry of the plea. *Tollett* v. *Henderson*, 411 U.S. 258, 266-67 (1973); *Burrows* v. *Engle*, No. 76-1690 (6th Cir. filed Dec. 1, 1976).

Accordingly, IT IS ORDERED that petitioner's motion to vacate sentence be and the same hereby is dismissed.

/s/ Robert E. DeMascio
Robert E. DeMascio
United States District Judge

Dated: April 8, 1977

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CR. # 48565

UNITED STATES OF AMERICA,
Plaintiff,

-vs-

WALTER WOLAK, JR.,
Defendant.

PETITION FOR WRIT OF HABEAS CORPUS AD PROSEQUENDUM

TO: THE HONORBALE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN:

THE CLERK OF THE COURT FOR THE EASTERN DISTRICT OF MICHIGAN:

NOW COMES THE UNITED STATES OF AMERICA by Ralph B. Guy, Jr. United States Attorney, and Peter J. Kelley, Assistant United States Attorney, for the Eastern District of Michigan, and respectfully shows as follows:

That THURSDAY, APRIL 19, 1973, at 11:00 A.M., is the date and time set for the arraignment of defendant herein.

That said defendant is now an inmate at State Prison of Southern Michigan, Jackson, Michigan;

WHEREFORE, your petitioners pray that a Writ of Habeas Corpus Ad Prosequendum be directed to the WARDEN, STATE PRISON OF SOUTHERN MICHIGAN, JACKSON, MICHIGAN; MICHIGAN DEPARTMENT OF CORRECTIONS, LANSING, MICHIGAN; and the United

States Marshal for the Eastern District of Michigan, to produce the said defendant in the Courtroom of the Honorable Barbara K. Hackett, United States MAGISTRATE, Eastern District of Michigan, Southern Division, in the Federal Building, Detroit, Michigan, on THURSDAY, APRIL 19, 1973, at 11:00 A.M., for the above-stated purpose, and to be returned, safe and secure, to the custody of the law enforcement officers as directed by the Court.

Ralph B. Guy, Jr.
United States Attorney

/s/ Peter J. Kelley
By: Peter J. Kelley
Assistant United States Attorney

Let the Writ Issue As Prayed:

/s/ Cornelia G. Kennedy
United States District Judge

Dated: April 12 1973

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CRIMINAL NO. 48565

UNITED STATES OF AMERICA,
Plaintiff,

WALTER WOLAK, Jr.
Defendant.

WRIT OF HABEAS CORPUS AD PROSEQUENDUM

TO: WARDEN, STATE PRISON OF SOUTHERN MICHIGAN, JACKSON, MICHIGAN; MICHIGAN DEPARTMENT OF CORRECTIONS, LANSING, MICHIGAN;

and

UNITED STATES MARSHAL FOR THE EASTERN DISTRICT OF MICHIGAN.

YOU ARE HEREBY COMMANDED to produce WALTER WOLAK, JR., defendant herein, an inmate at STATE PRISON OF SOUTHERN MICHIGAN, JACKSON, MICHIGAN, in order that he may be available for arraignment in the above-captioned cause in the Courtroom of the Honorable Barbara K. Hackett, United States Magistrate, for the Eastern District of Michigan, Southern Division, on the 10th Floor of the Federal Building, Detroit, Michigan, on THURSDAY, APRIL 19, 1973, at 11:00 AM, and to remain until excused by the Court, and the said person to be returned, safe and secure, to the custody of the law enforcement officers, to be returned to the said prison, as directed by the Court.

WITNESS, the Honorable Cornelia G. Kennedy, United States District Judge for the Eastern District of Michigan, this 12th day of April, 1973.

Henry R. Hanssen, Clerk
United States District Court
/s/ (Illegible)
Deputy Clerk

(PJK 3113)

Habeas Corpus AD Testificandum
or AD Prosequendum

Received this writ on the 18 day of April 1973 at Detroit, Michigan and executed same, in part at Jackson, Michigan on 18 April 1973 by delivering a certified copy hereof to Warden of the Jackson State Prison and taking into custody the within named Walter WOLAK Jr. and returning to Detroit, Michigan as herein I am commanded.

Anthony E Rozman
U.S. Marshal
E/Mich.
By (Illegible)
Deputy

MARSHAL RETURN

I further executed this writ the 20 day of April 1973 at Detroit Michigan by taking into custody the within named Walter Wolak and returning him to the custody of the Warden of the States prison of Southern Jackson at Jackson Michigan this the 20 day of April 1973 as herein I am Commanded.

Anthony E Rozman
United States Marshal E/Mich
/s/ Jack R Wolf
By: Jack R Wolf
DUSM E/Mich

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CR. # 48565

UNITED STATES OF AMERICA,
Plaintiff,

-vs-

WALTER WOLAK, JR.,
Defendant.

PETITION FOR WRIT OF HABEAS CORPUS AD PROSEQUENDUM

TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN:

THE CLERK OF THE COURT FOR THE EASTERN DISTRICT OF MICHIGAN:

NOW COMES THE UNITED STATES OF AMERICA by Ralph B. Guy, Jr., United States Attorney, Peter J. Kelley, Assistant Untied States Attorney, for the Eastern District of Michigan, and respectfully shows as follows:

That THURSDAY, APRIL 19, 1973, at 11:00 A.M., is the date and time set for the arraignment of defendant herein.

That said defendant is now an inmate at State Prison of Southern Michigan, Jackson, Michigan;

WHEREFORE, your petitioners pray that a Writ of Habeas Corpus Ad Prosequendum be directed to the WARDEN, STATE PRISON OF SOUTHERN MICHIGAN, JACKSON, MICHIGAN; MICHIGAN DEPARTMENT OF CORRECTIONS, LANSING, MICHIGAN; and the United

States Marshal for the Eastern District of Michigan, to produce the said defendant in the Courtroom of the Honorable Barbara K. Hackett, United States MAGISTRATE, Eastern District of Michigan, Southern Division, in the Federal Building, Detroit, Michigan, on THURSDAY, APRIL 19, 1973, at 11:00 A.M., for the above-stated purpose, and to be returned, safe and secure, to the custody of the law enforcement officers as directed by the Court.

Ralph B. Guy, Jr.
United States Attorney

/s/ Peter J. Kelley
By: Peter J. Kelley
Assistant United States Attorney

Let the Writ Issue As Prayed:

/s/ Cornelia G. Kennedy
United States District Judge

Dated: April 12 1973

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CRIMINAL NO. 48565

UNITED STATES OF AMERICA,
Plaintiff,

vs.

WALTER WOLAK, Jr.
Defendant.

WRIT OF HABEAS CORPUS AD PROSEQUENDUM

TO: WARDEN, STATE PRISON OF SOUTHERN MICHIGAN, JACKSON, MICHIGAN; MICHIGAN DEPARTMENT OF CORRECTIONS, LANSING, MICHIGAN;

and

UNITED STATES MARSHAL FOR THE EASTERN DISTRICT OF MICHIGAN.

YOU ARE HEREBY COMMANDED to produce WALTER WOLAK, JR., defendant herein, an inmate at STATE PRISON OF SOUTHERN MICHIGAN, JACKSON, MICHIGAN, in order that he may be available for arraignment in the above-captioned cause in the Courtroom of the Honorable Barbara K. Hackett, United States Magistrate, for the Eastern District of Michigan, Southern Division, on the 10th Floor of the Federal Building, Detroit, Michigan, on THURSDAY, APRIL 19, 1973, at 11:00 AM, and to remain until excused by the Court, and the said person to be returned, safe and secure, to the custody of the law enforcement officers, to be returned to the said prison, as directed by the Court.

WITNESS, the Honorable Cornelia G. Kennedy, United States District Judge for the Eastern District of Michigan, this 12th day of April, 1973.

Henry R. Hanssen, Clerk
United States District Court

/s/ (Illegible)
Depty Clerk

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CR. # 48565

UNITED STATES OF AMERICA,
Plaintiff,

-vs-

WALTER WOLAK,
Defendant.

PETITION FOR WRIT OF HABEAS CORPUS AD PROSEQUENDUM

TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN:

THE CLERK OF THE COURT FOR THE EASTERN DISTRICT OF MICHIGAN:

NOW COMES THE UNITED STATES OF AMERICA by Ralph B. Guy, Jr., United States Attorney, and Peter J. Kelley, Assistant United States Attorney, for the Eastern District of Michigan, and respectfully shows as follows:

That Wednesday, June 27, 1973 at 9:00 AM is the date and time set for the TRIAL OF WALTER WOLAK, above-named defendant;

That said defendant is now an inmate at State Prison of Southern Michigan, Jackson, Michigan;

WHEREFORE, your petitioners pray that a Writ of Habeas Corpus Ad Prosequendum be directed to the WARDEN, STATE PRISON OF SOUTHERN MICHIGAN, JACKSON, MICHIGAN; MICHIGAN DEPARTMENT OF CORRECTIONS, LANSING, MICHIGAN; and the United States Marshal for the Eastern District of Michigan, to produce the said defendant in the Courtroom of the Honorable CORNELIA G. KENNEDY, United States District Judge for the Eastern District of Michigan, Southern Division, in the Federal Building, Detroit, Michigan, on WEDNESDAY, JUNE 27, 1973, at 9:00 AM for the above-stated purpose, and to be returned, safe and secure, to the custody of the law enforcement officers as directed by the Court.

Ralph B. Guy, Jr.
United States Attorney

/s/ Peter J. Kelley
By: Peter J. Kelley
Assistant United States Attorney

Let the Writ Issue As Prayed:

/s/ Cornelia G. Kennedy
United States District Judge

Dated: June 26, 1973

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CRIMINAL NO. 48565

UNITED STATES OF AMERICA,
Plaintiff,

vs.

WALTER WOLAK,
Defendant.

WRIT OF HABEAS CORPUS AD PROSEQUENDUM

TO: WARDEN, STATE PRISON OF SOUTHERN MICHIGAN, JACKSON, MICHIGAN; MICHIGAN DEPARTMENT OF CORRECTIONS, LANSING, MICHIGAN;

and

UNITED STATES MARSHAL FOR THE EASTERN DISTRICT OF MICHIGAN.

YOU ARE HEREBY COMMANDED to produce WALTER WOLAK, defendant herein, an inmate at State Prison of Southern Michigan, Jackson Michigan in order that he may be available for TRIAL in the above-captioned cause in the Courtroom of the Honorable Cornelia G. Kennedy, United States District Judge for the Eastern District of Michigan, Southern Division, on the 2nd Floor of the Federal Building, Detroit, Michigan, on WEDNESDAY, JUNE 27, 1973, at 9:00 AM, and to remain until excused by the Court, and the said person to be returned, safe and secure, to the custody of the law enforcement officers, to be returned to the said prison, as directed by the Court.

WITNESS, the Honorable Cornelia G. Kennedy, United States District Judge for the Eastern District of Michigan, this 26th day of June, 1973.

Henry R. Hanssen, Clerk
United States District Court
/s/ (Illegible)
Deputy Clerk

MARSHALS RETURN

Received this writ on the 27th day of June 1973, at Detroit, Michigan and executed same in part at Jackson, Michigan, on 27 June 1973 by Delivering a certified copy hereof to the Warden of the State Prison Southern Michigan, and taking into custody the within named Walter Wolak and returning same to the U.S. Marshals Office Detroit, Michigan as herein I am Commanded.

Anthony E. Rozman
United States Marshal
Eastern District of Michigan
/s/ Harry B. Westerdale Jr.
By: Harry B. Westerdale Jr.
Deputy U.S. Marshal

I further executed this writ on the 6 day of July, 1973, at Detroit, Mich. by taking into custody the within-named WALTER WOLAK and returning him to the custody of the Warden of the State Prison Southern Michigan, at Jackson Michigan, this the 6 day of July, 1973, as herein I am commanded.

Anthony E. Rozman
U.S. Marshal
Eastern District of Michigan
By: /s/ Brady Hawkins Jr.
Brady Hawkins Jr.
Deputy

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CRIMINAL NO. 48565

UNITED STATES OF AMERICA,
Plaintiff,

vs.

WALTER WOLAK,
Defendant.

WRIT OF HABEAS CORPUS AD PROSEQUENDUM

TO: WARDEN, STATE PRISON OF SOUTHERN MICHIGAN, JACKSON, MICHIGAN; MICHIGAN DEPARTMENT OF CORRECTIONS, LANSING, MICHIGAN;

and

UNITED STATES MARSHAL FOR THE EASTERN DISTRICT OF MICHIGAN.

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WITNESS, the Honorable Cornelia G. Kennedy, United States District Judge for the Eastern District of Michigan, this 26th day of June, 1973.

Henry R. Hanssen, Clerk
United States District Court
/s/ (Illegible)
Deputy Clerk